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SUBJECT: Taiwan IPR: Campus Enforcement Improves, MOE Action Plan
to Continue

REFTELS:

- A) 2001 Taipei 1681
- B) 2004 Taipei 533
- C) 2006 Taipei 562
- D) 2006 Taipei 4007
- E) 2004 Taipei 3953
- F) 2007 Taipei 2529
- G) 2007 Taipei 2595
- H) 2008 Taipei 1655
- I) 2008 Taipei 8
- J) 2008 Taipei 49
- K) 2008 Taipei 1318
- L) 2008 Taipei 745
- M) 2007 Taipei 2005

Summary

1. (SBU) The Taiwan Ministry of Education (MOE) will indefinitely continue its Campus Intellectual Property (IP) Action Plan. The Plan's requirements and incentives are spurring schools to increase enforcement efforts, and the MOE is helping schools to implement best practices across Taiwan. Rightsholders report infringement on the pan-island university intranet, the Taiwan Academic Network (TANet), is down from 2008, and confirm the MOE continues to cooperate in tracking and punishing unauthorized file-sharing. Rightsholder groups, however, still report widespread use of pirated or unlicensed software. Although on-campus textbook copying and other physical infringement appear to have continued their decade-long decline, rightsholders report widespread off-campus textbook piracy. End summary.

Background

2. (SBU) Taiwan's teachers and administrators have traditionally viewed campuses as havens from normal law enforcement. Universities rarely refer students to the police or prosecutors' offices for non-violent crimes, including intellectual property rights (IPR) violations, and prosecutors are wary of taking action against such problems. The last major crack-down on campus piracy--an attempt in 2001 by the Tainan District Prosecutors Office to prosecute 14 students at National Chengkung University for sharing MP3 files (ref A)--set off a strong reaction from administrators, students, and the Taiwan public, and led to the reassignment of the prosecutors involved. Unauthorized textbook copying and digital piracy, therefore, remained common on Taiwan's campuses (refs B, C, D, and E).

3. (SBU) After an initial suggestion from the United States led to

several rounds of consultations with campus representatives, the MOE initiated the Campus IP Action Plan in early 2007, and began implementing the Plan in November of that year (ref F). Under the Plan, the MOE has introduced new IPR-related requirements and targets for Taiwan universities, and publicly grades each university's performance on numerous metrics in order to promote best practices and shame less successful schools into taking more action.

¶4. (SBU) The Plan--originally intended to run for three years through the end of 2009--led universities to take tangible steps to deal more seriously with IPR (refs G and H). The MOE, therefore, encouraged by schools' improvements under the Plan, and spurred by continual U.S. engagement, decided in November 2009 to continue the Plan indefinitely.

Rightsholders Pleased with MOE Cooperation

¶5. (SBU) During the Plan's first year, rightsholder groups, including the Taiwan Book Publishers' Association (TBPA), the Business Software Alliance (BSA), the Recording Industry Foundation in Taiwan (RIT, formerly the Taiwan International Federation of the Phonographic Industry), and the Taiwan Foundation Against Copyright Theft (TFACT), complained the MOE did not meet regularly with rights- holders, did not seem interested in cooperating closely with them in implementing the Plan (refs I, J), and did not respond in detail to rights-holder reports on possible copyright violations on TANet (ref K).

¶6. (SBU) However, MOE-industry cooperation improved during the plan's second year (ref H), and representatives from all four major

TAIPEI 00000017 002 OF 003

rightsholder groups tell us that smooth communication and cooperation with the MOE continued over 2009. BSA Taiwan head Gina Tsai recently told econoff that BSA's Singapore-based regional management is pleased with the results of the MOE's Action Plan, and has been impressed by participating universities' IP enforcement improvements under the Plan. Tsai noted that the Plan is working much better now than it was two years ago, and said BSA is urging MOE to shift its focus from IP enforcement to helping university administrators, professors, and students understand how to protect their own intellectual property.

Digital Piracy Down on TANet

¶7. (SBU) University administrators tell us that the MOE Computer Center regularly gives them industry requests to remove violating material from TANet. BSA's Tsai, RIT CEO Robin Lee, and TFACT head Spencer Yang confirm that the MOE responds quickly to rightsholder requests to remove violating material from TANet. Industry groups also confirm that MOE reports to rightsholder groups every six to eight weeks about TANet infringements complaints(ref L).

¶8. (SBU) University administrators and rightsholder groups tell us that, although unauthorized file sharing and other digital piracy continues on TANet, MOE's actions have reduced TANet infringements. According to BSA Taiwan's Stella Lai, over the first ten months of 2009, BSA sent 25-30 takedown notices per month to the MOE about possible infringing incidents on TANet, down from 50 per month in ¶2008. RIT's Lee recently told econoff that RIT sent 125 takedown notices to TANet administrators in 2008, but is only on pace to send 36 in 2009, a 71-percent decline.

¶9. (SBU) This drop in suspected cases of infringement on TANet contrasts well with the overall internet infringement situation: RIT has sent 2.4 percent more takedown notices to ISPs this year compared with 2008, and BSA has not seen any drop-off in the number of takedown notices sent through Taiwan ISPs to suspected users of unlicensed software.

P2P Ban Extended

¶10. (SBU) In late November 2008, the MOE banned the use of peer-to-peer (P2P) file-sharing software on TANet. According to RIT's Lee, although universities have, in response to the MOE's directive, adopted measures to block access to unauthorized P2P software, RIT stills uncovers cases of illegal P2P file-sharing on TANet. In addition, many universities in Taiwan have begun to contract out student dormitory internet service to commercial ISPs in order to preserve TANet bandwidth, a change that allows students to circumvent TANet P2P restrictions. In response to rightsholder complaints about on-campus commercial ISPs, during the latest Campus IP Action Plan taskforce meeting held on November 27, 2009, the MOE agreed to add a regulation banning the use of P2P software on commercial ISPs in university dormitories.

¶11. (SBU) This ban, however, may not be enforceable in all cases. On December 29, Ministry of Economic Affairs (MOEA) Intellectual Property Office (TIPO) Deputy Director General Margaret Chen told econoff that many universities have signed contracts with private ISPs to provide internet service in dormitories and other locations on campus. In such cases, the universities have the right to restrict users' access to P2P or other software applications. Chen said, however, that on campuses where students individually sign up and pay for internet service, Taiwan law would likely not allow schools to prohibit use of P2P services.

Software Piracy Still a Problem

¶12. (SBU) In contrast to the MOE's success in reducing violations on TANet, industry still reports widespread use of unlicensed or under-licensed software on Taiwan's campuses. On December 29, BSA's Tsai told econoff the Ministry is "failing to deal with campus software piracy." BSA member companies say through internet monitoring, software sales, student enrollment figures, and help-desk queries, the companies believe many universities either buy too few licenses for the number of students who use the software, or simply allow students to use pirated versions.

¶13. (SBU) Although some BSA member companies, such as Microsoft, report that most copies of their software used on campuses in Taiwan are legitimate, Tsai said the majority of companies report

TAIPEI 00000017 003 OF 003

widespread under-licensing of software. Although BSA does not think the problem is any worse on campuses than it is among the general population (ref H), they are frustrated that the Ministry of Education is not more aggressive in dealing with the problem.

¶14. (SBU) BSA is also frustrated that the police--out of respect for academic independence and fear of public backlash--will not go on campuses to investigate, but will instead ask universities to take action (ref H). According to Tsai, however, the problem with enforcement on campuses is not just that police and prosecutors are hesitant to enforce IP laws, but also that most BSA member companies do not want to lose or alienate their customers--including future customers--by taking legal action against students or schools.

Textbook Piracy Still Common

¶15. (SBU) Although a 2007 survey showed that roughly half of college students still buy pirated versions of some books and supplementary materials (ref M), administrators at universities econoff visited during 2009 noted the problem of illegal textbook copying has almost disappeared at on-campus copy shops. They also report off-campus copy shops are either more reluctant to copy textbooks in whole or in part, or have begun to refuse to copy more than a few pages of any one book.

¶16. (SBU) The Taiwan Book Publishers' Association (TBPA), however, continues to report to us that the situation has not improved, but has merely gone underground. According to TBPA's Theresa Liu, off-campus copy shops still take orders through on-campus representatives and standing student relationships, then deliver books directly to customers. Liu recently told econoff that some off-campus copy shops are "quite powerful" politically, and TBPA is

therefore unable to convince prosecutors to authorize mid-semester raids against the shops.

¶17. (SBU) TPBA does not have direct evidence to back up its claims of widespread textbook piracy. Police copy-shop raids at the beginning of the 2009 fall semester failed to turn up significant amounts of violating materials. To bolster TBPA's claims about rampant textbook piracy, the Association has asked Professor Hsieh Ming-yang of National Chengchi University to undertake another student survey to assess the scale of the piracy problem. Professor Hsieh's study will finish in early 2010.

Comment

¶18. (SBU) Taiwan's college campuses remain islands of laxer IPR enforcement in an improving IP environment. However, as rights-holders regularly point out to us, Taiwan's students are in most respects no worse than their peers in other developed economies. Although U.S. pressure initially spurred the MOE to launch the Campus IP Action Plan, the Ministry and Taiwan's schools have embraced the Plan, and related industry groups are pleased with Taiwan's actions against TANet piracy. Continued progress--including enforcement of the internet service provider (ISP)-related amendments to the Copyright Act--will be key to further reducing digital piracy on Taiwan's campuses. End comment.